



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2012-0887; FRL- 9785-5]

Approval and Promulgation of Implementation Plans; Tennessee; Revisions to the Knox County Portion of the Tennessee State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Knox County portion of the Tennessee State Implementation Plan (SIP), submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC) on August 19, 2009, August 22, 2012, and October 12, 2012. The SIP submittals include changes to Knox County Air Quality Management Regulations concerning open burning, permits and regulation of volatile organic compounds (VOCs). TDEC considers Knox County's SIP revisions to be as or more stringent than the Tennessee SIP requirements. EPA is approving the Knox County SIP revisions because the State has demonstrated that they are consistent with the Clean Air Act (CAA or Act).

DATES: This direct final rule is effective [Insert date 60 days after publication in the Federal Register] without further notice, unless EPA receives adverse comment by [Insert date 30 days after publication in the Federal Register]. If adverse comment is received,

EPA will publish a timely withdrawal of the direct final rule in the Federal Register and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2012-0887, by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. E-mail: R4-RDS@epa.gov.
3. Fax: (404) 562-9019.
4. Mail: "EPA-R04-OAR-2012-0887," Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.
5. Hand Delivery or Courier: Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R04-OAR-2012-0887.

EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be

Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through www.regulations.gov or e-mail, information that you consider to be CBI or otherwise protected. The www.regulations.gov website is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA’s public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S.

Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9043. Mr. Lakeman can be reached via electronic mail at lakeman.sean@epa.gov.

SUPPLEMENTARY INFORMATION:

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- I. Analysis of Knox County's Submittals**
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I. Analysis of Knox County's Submittals

On August 19, 2009, August 12, 2012 and October 12, 2012, TDEC submitted SIP revisions to EPA for approval into the Knox County portion of the Tennessee SIP. Specifically, the August 19, 2009, SIP revision includes changes to regulations, section 16.0 – *Open Burning* (subsection 16.3.C), Section 25.0 – *Permits* (subsection

25.10.B.11) and Section 46.0 – *Regulation of Volatile Organic Compounds*. The August 22, 2012, and October 12, 2012, SIP revisions both amend Section 25.0 (subsection 25.1). The Knox County SIP revisions, summarized below, are as or more stringent than the Tennessee SIP and are approvable pursuant to section 110 of the CAA. EPA is taking action to approve these SIP revisions.

A. August 19, 2009, Submittal

This SIP revision makes the following changes to Knox County Regulations: Section 16 *Open Burning*, Section 25 *Permits* and Section 46 *Regulation of Volatile Organic Compounds*. Specifically, the submission requests that:

1) Section 16.3. – Exceptions to Prohibition – Without Permit – remove from the SIP paragraph 16.3.C allowing law enforcement agencies to open burn contraband. EPA is not taking action on this request to remove Section 16.3.C from the SIP because it was never approved into the Knox County portion of the Tennessee SIP, therefore no action is required;

2) Section 25.10 – Permit by Rule adds Section 25.10.B.11 “Ethanol distribution operations” so that ethanol distribution operations are deemed to have a “Permit by Rule” if certain conditions are met. The intent of the “Permit by Rule” provision is to provide a simple compliance technique to limit a facility’s potential emissions below the “major source” threshold, with respect to title V of the CAA. The ethanol distribution operations “Permit by Rule” provision operates by limiting annual

throughput and utilizing the Stage I vapor recovery system to ensure that a source will not exceed the major source thresholds; and

3) Section 46.2 – Regulation of Volatile Organic Compounds – replaces at paragraph 46. the existing definition of VOCs with the federal definition of VOCs, by incorporating by reference 40 CFR 51 subpart F definition of VOCs. This will ensure that the local and federal definitions of VOCs are consistent.

B. August 22, 2012, Submittal

This revision changes Knox County Regulation, section 25.0 by adding a new subsection 25.1.D that states “Additional and/or more restrictive construction permit conditions may be established using the same procedures and criteria specified in Section 25.3.I.” This provision allows for a more restrictive construction permit to be issued provided it adheres to the procedures in Knox County Regulation, section 25.3.I.

C. October 12, 2012, Submittal

This SIP revision changes Knox County Regulation, section 25.0 by adding a new subsection 25.1.E to specify that public notice and a 30-day comment period will be provided for Knox County construction permits for minor sources.

II. Final Action

EPA is approving the aforementioned changes to Knox County portion of the Tennessee SIP, because they are consistent with EPA policy and the CAA. EPA is publishing this rule without prior proposal because the Agency views this as a

noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this Federal Register publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective [Insert date 60 days from the date of publication] without further notice unless the Agency receives adverse comments by [Insert date 30 days from date of publication].

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on [Insert date 60 days from date of publication] and no further action will be taken on the proposed rule. *Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.*

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action

merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and

legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file any comment in response to the

parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 12, 2013.

A. Stanley Meiburg,
Acting Regional Administrator,
Region 4.

40 CFR part 52 is amended as follows:

PART 52--[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart RR – Tennessee

2. Section 52.2220(c) is amended by revising entries in Table 3 for “Sections 25.0 and 46.0” to read as follows:

§ 52.2220 Identification of plan.

* * * *

(c) * * *

Table 3 - EPA Approved Knox County, Regulations

State section	Title/subject	State effective date	EPA approval date	Explanation
**	**	*	*	*
Section 25.0	Permits	10/10/2012	[Insert date of publication in <u>Federal Register</u>] [Insert first page of publication]	
**	**	*	*	*
Section 46.0	Regulation of Volatile Organic Compounds	8/12/2009	[Insert date of publication in <u>Federal Register</u>] [Insert first page of publication]	
**	**	*	*	*

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[FR Doc. 2013-04412 Filed 02/27/2013 at 8:45 am; Publication Date: 02/28/2013]